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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,366	07/30/2003	Avelino Corma Canos	2429-1-023	8944

7590 03/24/2005

KLAUBER & JACKSON
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Hackensack, NJ 07601

EXAMINER

SAMPLE, DAVID R

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,366

Applicant(s)

CANOS ET AL.

Examiner

David Sample

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 15 is/are rejected.
- 7) ☒ Claim(s) 1-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 1-20 are objected to because of the following informalities:

The instant claims include numerous “preferable” recitations. One of ordinary skill in the art understands that these “preferable” recitations are merely exemplary, and that the claims broadly encompass the “non-preferable” recitations. Thus, the claims are definite and a rejection under § 112, second paragraph would not be appropriate.

However, U.S. patent practice has tended to prefer that “preferable” recitations be incorporated into dependent claims. Therefore, the examiner requests that the “preferable” recitations be deleted from the claims. “Preferably” or “preferably” are used in the following instances:

Claim 1:

- Preferable ‘X’ elements;
- Preferable ‘Y’ elements;

Claim 2:

- Preferable ‘x’ values;
- Preferable ‘y’ values;

Claim 5: preferable surface area;

Claim 6:

- Preferable heating temperature;
- Preferable ‘Y’ elements (two occurrences);
- Preferable ‘X’ elements (two occurrences);

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- Preferable ranges for each molar ratio in the reaction mixture;
- Preferable 'R' compounds;

Claim 7: preferable 'salts';

Claim 8:

- Preferable seed 'characteristics';
- Preferable amounts of seeds; and

Claim 12: preferable number of carbon atoms in the alkylammonium ions.

In claim 6, (first indented item on page 19), "another" as it relates to trivalent elements should be deleted because there are no other X elements referred to previously.

In claim 16, line 3, the period should be a colon.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The parenthetical reference to "OH⁻ and Br⁻" is indefinite because it is not clear from the claims whether the solutions require both OH⁻ and Br⁻, or whether the claims only require the presence of the hydroxide.

Allowable Subject Matter

Claims 1-20 are allowed subject to the correction of the above matters. The prior art fails to disclose or suggest a material which exhibits the x-ray diffraction pattern recited in claim 1.

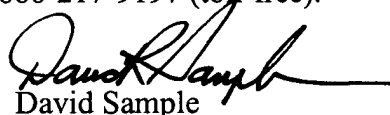
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (572)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David Sample
Primary Examiner
Art Unit 1755